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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,310

04/19/2006

Yoon-Hoi Kim

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EXAMINER

VARNUM, RYAN A

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,310	<b>Applicant(s)</b> KIM, YOON-HOI	
	<b>Examiner</b> RYAN VARNUM	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/19/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species I, Claims 1-5 in the reply filed on 6/5/2009 is acknowledged. Accordingly, Claims 6-8 are withdrawn and Claims 1-5 will be examined herein.

### ***Drawings***

2. The drawings are objected to because Figures 11 and 12 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1, 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Losier et al. (US Patent 6,357,945).

5. In re Claim 1, Losier discloses a lip package (Column 1, Line 25), comprising: a container body 12/14/18 (“barrel”, “barrel extension” and “applicator”; Fig. 5; Column 2, Line 65 to Column 3, Line 1) with a push button 30 (“actuator”; Fig. 5; Column 3, Line 29) protruding from an outer circumferential surface thereof (Fig. 5); a cylinder 12 (“barrel”; Fig. 5; Column 2, Line 67) coupled to the container body (Fig. 5), for containing a liquid cosmetic (Column 3, Lines 3-5); a delivery member 18 (“applicator”; Fig. 5; Column 3, Line 1) coupled to the cylinder (Fig. 5) and having a top surface 50 (“applicator surface”; Fig. 5; Column 3, Lines 16-21) formed with a plurality of delivery holes (“microporous material to a porous mesh”; Column 3, Line 20); a piston 22 (“piston elevator”; Fig. 5; Column 3, Line 3) with the same shape and size as a cross section of the cylinder (Fig. 5; Column 3, Lines 3-8), the piston being raised along an inner circumferential surface of the cylinder to pressurize the liquid cosmetic (Column 3, Lines 3-8); and an actuating member 40 (“rod”; Fig.’s 1-2; Column 3, Line 13) accommodated within the container body (Fig.’s 3-4), the actuating member vertically raising the piston in response to a push operation of the push button to deliver the liquid cosmetic through the delivery member (Column 3, Lines 56-65, 9-10 and 16-21).

6. In re Claims 3 and 4, Losier further discloses the top surface 50 (Fig. 5) of the delivery member 18 (Fig. 5) is formed to be inclined with respect to a cross section of

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the cylinder 12 (Fig. 5; Column 1, Line 66 to Column 2, Line 1); and an absorbing member, including a sponge ("microporous material to a porous mesh"; Column 3, Line 20), for covering the top surface 50 (Fig. 5) of the delivery member 18 (Fig. 5).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Losier in view of Bauer (US Patent 2,951,584). Losier further discloses a lid 20 ("closure"; Fig. 5; Column 3, Line 1) detachably coupled to an outer circumferential surface of the cylinder (Fig.'s 3-5) to close the delivery member 18 (Column 3, Line 21), wherein the push button 30 (Fig. 5) protrudes from the outer circumferential surface of the container body (See Fig. 5).

9. Although Losier does not disclose an end of the lid fitting into a fixing recess on the push button, attention is directed to Bauer which teaches a lip package having a lid 26 (Fig. 5) and a push button 16 (Fig. 5) protruding from an outer surface of the container body 11 (Fig. 5), the push button comprising a fixing recess 31 ("groove"; Fig.'s 5 and 7; Column 2, Line 50) such that upon coupling of the lid to the outer surface

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of the container body, an end of the lid 30 ("rib") can be fitted into the fixing recess of the push button (Fig.'s 5 and 7; Column 2, Lines 48-52) to fix the push button, for the purpose of securely locking the cover in place and preventing it from opening accidentally (Column 2, Lines 52-53).

10. Accordingly, it would have been obvious to a person having ordinary skill in the art, at the time the invention was made, to modify the device of Losier, to include a fixing recess on the push button, capable of receiving an end of the lid, as taught by Bauer, for the purpose of securely locking the cover in place and preventing it from opening accidentally.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Losier in view of Liu (US Patent 6,474,891). Losier further discloses the actuating member 40 (Fig.'s 1-4) comprising a nut plate 44 ("upper gear"; Fig.'s 1-4 and 6; Column 3, Lines 13-14) to be rotated in response to the push operation of the push button 30 (Fig. 5; Column 3, Lines 57-60) a screw bar 42 ("threaded screw"; Fig.'s 1-4; Column 3, Line 13), and a piston 22 coupled to the screw bar (Fig. 4).

12. Although Losier does not disclose the screw bar being threadly engaged with the nut plate such that the screw bar rises in response to the rotation of the nut plate, attention is directed to Wiercinski which teaches a cosmetic package comprising a nut plate 30 ("threaded nut"; Fig. 2; Column 4, Line 48) actuated by a push button 32 (Fig. 1) and a screw bar 29 ("feed screw"; Fig. 2) threadly engaged with the nut plate (Column 4, Lines 46-51), the screw bar being raised in response to the rotation of the

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nut plate (Column 4, Lines 46-51), and a piston 27 ("elevator"; Fig. 2) coupled to the screw bar (Column 4, Lines 42-44) is raised in response to the rising of the screw bar (Column 5, Line 64 to Column 6, Line 9), for the purpose of providing a button type dispensing package (Title).

13. Accordingly, it would have been obvious to a person having ordinary skill in the art, at the time the invention was made, to modify the device of Losier, to replace the drive mechanism used therein with an equivalent drive mechanism wherein the screw bar is threadly engaged with the nut plate such that the screw bar rises in response to the rotation of the nut plate, thereby causing the piston to rise in response to the rising of the screw bar, as taught by Wiercinski, for the purpose of providing an equally effective button type dispensing package.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN VARNUM whose telephone number is (571) 270-7853. The examiner can normally be reached on Monday - Friday, 9:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. V./

Examiner, Art Unit 3751

/David J. Walczak/  
Primary Examiner, Art Unit 3751